

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of

HUBER

Serial No. 10/786,301

Filed: February 26, 2004

Title: INTEGRATED STRUCTURAL SCREEN PANEL FOR PROJECTION TELEVISION



Atty Dkt. MNL-2414-53

C# M#

TC/A.U.: 2622

Examiner: Tran

Date: May 14, 2007

✓ AFS
TFW

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

☐ **Correspondence Address Indication Form Attached.**

☐ **NOTICE OF APPEAL**

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences
from the last decision of the Examiner twice/finally rejecting
applicant's claim(s).

\$500.00 (1401)/\$250.00 (2401) \$

☒ An appeal **BRIEF** is attached in the pending appeal of the
above-identified application

\$500.00 (1402)/\$250.00 (2402) \$ 500.00

☐ Credit for fees paid in prior appeal without decision on merits

-\$ ()

☐ A reply brief is attached.

(no fee)

☐ Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s)

One Month Extension \$120.00 (1251)/\$60.00 (2251)
Two Month Extensions \$450.00 (1252)/\$225.00 (2252)
Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)
Four Month Extensions \$1590.00 (1254)/\$795.00 (2254) \$

☐ "Small entity" statement attached.

Less month extension previously paid on

-\$ ()

Total Fee \$ 500.00

☒ **Credit Card Payment Form Attached**

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension.
The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or
asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this
firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

901 North Glebe Road, 11th Floor
Arlington, Virginia 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
MNL:slj

NIXON & VANDERHYE P.C.

By Atty: Michelle N. Lester, Reg. No. 32,331

Signature: 



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of

HUBER

Atty. Ref.: 2414-53

Serial No. 10/786,301

TC/A.U.: 2622

Filed: February 26, 2004

Examiner: Tran

For: INTEGRATED STRUCTURAL SCREEN PANEL FOR PROJECTION
TELEVISION

May 14, 2007

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Applicant submits herewith their Brief on Appeal pursuant to 37 CFR §41.37.

05/15/2007 MBERHE 00000065 10786301

01 FC:1402

500.00 0P

TABLE OF CONTENTS

(I)	REAL PARTY IN INTEREST	3
(II)	RELATED APPEALS AND INTERFERENCES	4
(III)	STATUS OF CLAIMS.....	5
(IV)	STATUS OF AMENDMENTS.....	6
(V)	SUMMARY OF CLAIMED SUBJECT MATTER	7
(VI)	GROUND OF REJECTION TO BE REVIEWED ON APPEAL	9
(VII)	ARGUMENT	10
(VIII)	CLAIMS APPENDIX.....	18
(IX)	EVIDENCE APPENDIX.....	22
(X)	RELATED PROCEEDINGS APPENDIX	23

HUBER
Serial No. 10/786,301
Appeal Brief
May 14, 2007

(I) REAL PARTY IN INTEREST

The real party in interest is the assignee, TOSHIBA AMERICA CONSUMER PRODUCTS, L.L.C., a corporation of New Jersey.

HUBER
Serial No. 10/786,301
Appeal Brief
May 14, 2007

(II) RELATED APPEALS AND INTERFERENCES

The parent application to the subject application, Application No. 10/212,240, was the subject of Appeal No. 2006-3016 in which a Decision was rendered on February 28, 2007. On information and belief there are no other prior or pending appeals, interferences, or judicial proceedings (past or present), known to appellant, the appellant's legal representative, or assignee, which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

(VI) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 2, 4-5, 8, 11-15, 18 and 20 stand rejected under 35 USC §102(e) as being anticipated by McKay.

Claims 3, 10, 16 and 21-22 stand rejected under 35 USC §103(a) as being unpatentable over McKay.

Claims 6-7 and 17 stand rejected under 35 USC §103(a) as being unpatentable over McKay in view of Ananian.

Claims 9 and 19 stand rejected under 35 USC §103(a) as being unpatentable over McKay in view of Scheve.

HUBER
Serial No. 10/786,301
Appeal Brief
May 14, 2007

(III) STATUS OF CLAIMS

Claims 1-22 remain pending. Claims 1-22 are rejected. The rejection of claims 1-22 is being appealed. A current listing of the claims that are the subject of this Appeal is presented in the Claims Appendix of this Brief.

HUBER
Serial No. 10/786,301
Appeal Brief
May 14, 2007

(IV) STATUS OF AMENDMENTS

No amendment has been filed following the final rejection of January 23, 2007.

(V) SUMMARY OF CLAIMED SUBJECT MATTER

A conventional projection television screen assembly is composed of a Fresnel screen and a lenticular screen overlaid on the front side of the Fresnel screen. More recently, a third screen, typically made of clear or slightly tinted acrylic, has been added which serves to protect the more expensive lenticular screen from damage.

Conventionally projection televisions have controls that may be included in the bezel frame or in the television cabinet and/or include a remote control which controls the television by interfacing with sensors incorporated in the bezel frame or cabinet.

According to a feature of the present invention, touch (sensor) controls are integrated into the surface of the front screen panel of the screen assembly. In the illustrated embodiment, the touch controls are integrated directly onto the glass panel 126 in an area covered by a silk screened border 140, below the viewable area 180. Text and/or artwork 276 indicating the location and function of the touch controls are silk screened on the back surface of the glass (Page 9 - 10, paragraph [0028]). The incorporation of touch controls provides viewing and controlling in one continuous surface thereby providing a high tech look and eliminating the need for parts associated with a separate control panel (Page 10, paragraph [0029]).

Thus and more specifically, as defined in claim 1, the invention provides a television assembly comprising a housing 124 and a screen assembly 112 secured to said housing, said screen assembly including: a front screen panel 126 having a front face 128 and a rear face 130, said front face being parallel to said rear face; an opaque masking layer 140 applied to a perimeter of at least one of said front and rear faces of said front screen panel so as to define a masked perimeter area framing a viewable area 180 of said screen assembly (page 5, paragraph [0018]); and at least one touch control 278 operatively coupled to at least one of said front and rear faces of said front screen panel in said masked perimeter area (page 9-10; paragraph [0028]).

The invention also provides, as defined in claim 14, a screen assembly 112 comprising: a generally flat front screen panel 126 having a front face 128 and a rear

face 130; an opaque masking layer 140 applied to a perimeter of at least one of said front and rear faces of said front screen panel so as to define a masked perimeter area framing a viewable area 180 of said screen assembly (page 5, paragraph [0018]); and at least one touch control 278 operatively coupled to at least one of said front and rear faces of said front screen panel in said masked perimeter area (page 9-10, paragraph [0028]).

(VII) ARGUMENT

A. Claims 1, 2, 4-5, 8, 11-15, 18 and 20 are patentable under 35 USC §102(b) as not having been anticipated by McKay.

The invention is defined in claim 1 (and 14) as directed to a television assembly having *inter alia* an opaque masking layer applied to a perimeter of the front or rear face of the front screen panel to define a masked perimeter area of the screen assembly that frames a viewable area of the screen assembly. Furthermore, at least one touch control is operatively coupled to the front or rear face of the front screen panel in the masked perimeter area of the front screen panel.

Anticipation under Section 102 of the Patent Act requires that a prior art reference disclose every claim element of the claimed invention. See, e.g., Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1574 (Fed. Cir. 1986). While other references may be used to interpret an allegedly anticipating reference, anticipation must be found in a single reference. See, e.g., Studiengesellschaft Kohle, G.m.b.H. v. Dart Indus., Inc., 726 F.2d 724, 726-27 (Fed. Cir. 1984). The absence of any element of the claim from the cited reference negates anticipation. See, e.g., Structural Rubber Prods. Co. v. Park Rubber Co., 749 F.2d 707, 715 (Fed. Cir. 1984). Anticipation is not shown even if the differences between the claims and the prior art reference are insubstantial and the missing elements could be supplied by the knowledge of one skilled in the art. See, e.g., Structural Rubber Prods., 749 F.2d at 716-17.

McKay is directed to an interactive electronic directory service having a touch screen display which is in the form of a plasma module 18 having a touch screen 20 dimensioned so as to fit over the display area of the plasma module. Reference is made to the plasma module having a case or chassis, e.g., in paragraph [0047] and paragraph [0055] with reference to Figure 6. No reference numeral is given for the

chassis or case but from paragraph [0055] speakers are apparently disposed in the chassis or case. Insofar as can be determined from the McKay disclosure and Figure 6 thereof, the plasma module is seated in a correspondingly sized and shaped receptacle in the chassis or case. Nothing whatsoever is said in McKay regarding any front overlap of the chassis/case and the plasma module. Clearly, there is no teaching of the chassis or case comprising a "masking layer applied to a perimeter of the" plasma module. Moreover, as clearly illustrated in Figure 6, the bezel is provided wholly or the case or chassis (not numbered) and does not overlap the plasma module.

Thus, contrary to the Examiner's allegation that the chassis anticipates the claimed masked perimeter area, the case or chassis mentioned in McKay does not constitute an opaque masking layer applied to a perimeter of one of the front and rear faces of the front screen panel. Indeed, for the Examiner to assert that a housing reads on an opaque masking layer applied to a front or rear face of a screened panel is to ignore the well understood meaning of the terms used in the claims.

It is further respectfully submitted that McKay does not teach or suggest a touch control operatively coupled to the front face or rear face of the front screen panel in a masked perimeter area. Touch controls 20 are clearly not disposed in a masked perimeter area. Moreover, buttons 64 do not read on the claimed touch control for two reasons. First, there is no operative connection disclosed in McKay between his hardwired buttons 64 and the front face or rear face of the screen panel, as required by claims 1 and 14. The buttons 64 are operatively coupled to the electronic controls of his system but not to the front face or rear face of the screen panel *per se*. Furthermore, the touch controls 64 are not disposed in a masked perimeter area of the screen. Insofar as can be determined from McKay those buttons are provided wholly in the bezel disposed on the case or chassis that receives the plasma module and not in a masked perimeter area of the screen panel.

Even if McKay is considered to anticipate claim 1 and/or claim 14, numerous dependent claims are presented that even further define the opaque masking layer and the touch controls so as to define over the Examiner's interpretation of McKay. In this regard, dependent claim 2 (and 15) specifies that the touch control is a touch sensor attached to the rear face of the front screen panel. In rejecting claim 2, the Examiner asserts that the hardwire buttons 64 and the bezel are mounted on the rear face of the front screen panel. It is not understood how the Examiner can assert that the forward facing hardwire buttons 64 in Figure 6a are touch sensors attached to the rear face of the front screened panel. No such attachment is illustrated, taught or suggested in McKay. In regard to claim 2 and claim 15, the Examiner also improperly collectively refers to touch controls 20 and buttons 64. According to McKay's teachings, touch controls 20 are provided as a panel disposed on a front face of the plasma module 18 (see Figure 3). Clearly the touch controls 20 are not attached to the rear face of the screen assembly; they are attached to the front face. As noted above, buttons 64 are not attached to the rear face of the front screen panel since they are provided in the bezel disposed on the front face of the chassis or case. Because there is no other teaching or suggestion in McKay of a touch sensor attached to a rear face of the front screen panel, much less in a masked perimeter area defined by an opaque masking layer applied thereto, it is clear that claim 2 is not anticipated.

Claim 4 (and 20) provides that indicia identifying the location and/or function of the touch screen control is provided on the front or rear face of the front screen panel, and visible from the front of the screen assembly. The Examiner asserts that the limitations of claim 4 are met by touch screen 20 and the set of hard wired inputs as button 64. As noted above, touch screen 20 is not provided in a masked perimeter area. Moreover the hard wired input buttons 64 are not associated with any indicia on the screen assembly. Thus, any indicia relating to touch control 20 does not meet claim 4 because the touch screen 20 is not located or included in a masked perimeter area

defined by an opaque masking layer applied to the front or rear face of the front screen panel. Regarding button 64, there is no teaching or suggestion whatsoever of any indicia on the front screen panel relating to the location or function of buttons 64 so that claim 4 (and claim 10), and claim 5 dependent from claim 4, are clearly not anticipated by McKay.

For all the reasons given herein above, the Examiner's §102 rejection over McKay should be reversed.

B. Claims 3, 10, 16 and 21-22 are patentable under 35 USC §103 as not having been obvious from McKay.

Regarding claims 3, 16, 21 and 22, the Examiner has asserted that a touch sensor adhesively attached is old and well known and therefore it would be obvious for McKay's "touch sensor" to be adhesively attached. Again, however, the Examiner appears to be ignoring his own prior interpretation of McKay. The Examiner has interpreted hard-wired push buttons 64 of McKay as allegedly reading on the "touch control" of applicant's independent claims 1 and 14. That touch control is incorporated in a bezel which is disposed on the chassis or case in which a plasma module is seated. As such, the push buttons 64 of McKay are physically remote from the front screen panel of the screen assembly of McKay. Even if the buttons 64 are somehow considered "operatively coupled" to the front screen panel, the remote location of the buttons 64 with respect to the front screen panel belies the Examiner's assertion that it would be "obvious" to adhesively attach buttons 64 directly to the front or rear face of the screen panel, as required by applicant's claims 3, 16, 21 and 22. Thus, McKay does not teach and it would not be obvious to adhesively attach push button 64 directly to a front or rear face of a screen panel. On the contrary, McKay expressly teaches the incorporation of such a control button in the bezel below the plasma module structure. As such, even if adhesively securing a "touch sensor" is old and well known in the art,

McKay does not teach and it would not be obvious to adhesively attach buttons 64 to anything, much less to a face of the screen panel. Touch sensor 20 is not disposed in a masked perimeter area so it does not meet the limitations of applicant's independent claims 1 and 14 and is in any event attached to the front face of the plasma module and thus also is not taught as adhesively attached directly to the rear face of a front screen panel as required by claims 3 and 16. For all the reasons advanced above the invention claimed in claims 3, 16, 21 and 22 is not anticipated by McKay.

With regard to claim 10, the Examiner has asserted that it would be obvious for the front screen panel (plasma module) of McKay to have a length and width greater than the length and width of the housing therefor. Applicant respectfully disagrees. McKay clearly teaches that the plasma module is seated in the case or chassis (not numbered) and even discloses speakers 24 disposed in that chassis beyond the plasma module. The bezel and push buttons 64 are also disposed beyond the plasma module. It would not have been obvious to form the plasma module larger than the casing or chassis because this would obstruct speakers 24 and interfere with the operation of push buttons 64. Clearly the only motivation for so modifying McKay is the Examiner's hindsight knowledge of applicant's invention. However, applicant's invention differs from McKay in this design aspect because of the provision of touch controls in a masked perimeter area such that the bezel and push buttons 64 taught by McKay are not required, nor is the confinement of the screen assembly to a receptacle in the chassis. Thus, the invention is clearly different from McKay and not obvious from McKay's disclosure.

For all the reasons advanced above, the Examiner's rejection of claims 3, 10, 16, and 21-22 as unpatentable over McKay cannot be sustained and should be reversed.

C. Claims 6-7 and 17 are patentable under 35 USC §103(a) as not having been obvious from McKay in view of Ananian.

Claims 6, 7 and 17 are submitted to be patentable over McKay for the reasons advanced above. McKay does not teach or suggest the provision of indicia associated with a touch control that is operatively coupled to the front or rear face to the front screen panel in the masked perimeter area defined by an opaque masking layer applied to the front or rear face of the front screen panel. Claim 6 further provides that the masking layer is applied to the rear face of the front screen panel and that the indicia is provided on the rear face prior to applying the masking layer. The Examiner cites Ananian as providing a masking layer as border 14 on a rear surface of a front screen panel and concludes from that teaching that would have been obvious to incorporate Ananian's border in McKay's system. It appears, therefore, that the Examiner no longer considers the chassis/case to constitute the claimed masked perimeter but now suggests that it would be obvious to incorporate a masking layer around the perimeter of the plasma module. However, even if such an opaque perimeter layer 14 is provided on the plasma module of McKay, the limitations of applicant's claims would still not be met. Firstly, there would be no indicia provided on the rear face of the screen module prior to applying the masking layer as required by applicant's claim 6. Further, there would be no touch sensor attached to the rear face of the screen panel after the masking layer is applied. In that regard, as noted touch screen 20 does not read on the touch controls of claims 1 and 14. In any event, the touch screen 20 is applied to the front face of the front screen panel, not the rear face. The hard wired buttons 64 are provided in a bezel that is mounted to the chassis or case that receives a plasma module and are not attached to the front screen panel, much less to a rear face thereof. Therefore, even if McKay is modified to include the masked perimeter 14 taught by Ananian, the limitations of applicant's claims 6, 7 and 17 would still not be anticipated nor obvious.

For all the reasons advanced above, the Examiner's rejection of claims 6, 7, and 17 is improper and should not be sustained.

D. Claims 9 and 19 are patentable as not having been obvious from McKay in view of Scheve.

In the Examiner's rejection of claims 1 and 14, the Examiner has asserted that the case or chassis that receives the plasma module reads on the claimed masking layer, but in regard to claims 9 and 19 the Examiner recognizes that the casing or chassis is not silk screened to the front screen panel. The Examiner then turns to Scheve as allegedly teaching a protective coating that may be silk screened or sprayed over the back surface after an image has been applied and summarily concludes that it would have been obvious to incorporate Scheve's silk screening in the McKay system. Even if Scheve's silk screening is incorporated in the McKay's system, the invention claimed would not be anticipated nor obvious. Indeed, a clear protective coating as disclosed by Scheve does not constitute an opaque masking layer as required by applicant's claims 9, (by dependency on claim 1) and 19 (by dependency on claim 14). Moreover, that masking layer would not define a perimeter area in which a touch control is operatively coupled to the front or rear face of the screened panel because, by the Examiner's own admission, the touch control 64 is provided in a bezel mounted to the case or chassis for the plasma module. Thus applying a protective coating as taught by Scheve in McKay would not read on the claimed masking layer nor would it be consistent with the Examiner's interpretation of McKay in rejecting claims 1 and 14.

Clearly, therefore, the Examiner's attempted rejection of claims 9 and 19 is inconsistent with his rejection of the independent claims and would not in any event produce the invention claimed by applicant. In view of the foregoing, it is respectfully submitted that the rejection of claims 9 and 19 cannot be properly sustained.

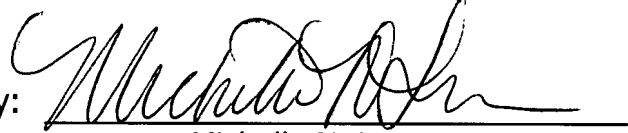
HUBER
Serial No. 10/786,301
Appeal Brief
May 14, 2007

CONCLUSION

For all the reasons advanced above, reversal of the Examiner's Rejection and allowance of all pending claims is solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Michelle N. Lester
Reg. No. 32,331

MNL:slj
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

(VIII) CLAIMS APPENDIX

1. (Original) A television assembly comprising a housing and a screen assembly secured to said housing, said screen assembly including:

a front screen panel having a front face and a rear face, said front face being parallel to said rear face;

an opaque masking layer applied to a perimeter of at least one of said front and rear faces of said front screen panel so as to define a masked perimeter area framing a viewable area of said screen assembly; and

at least one touch control operatively coupled to at least one of said front and rear faces of said front screen panel in said masked perimeter area.

2. (Original) The television assembly of claim 1, wherein said at least one touch control operatively coupled to said front screen panel comprises a touch sensor attached to the rear face of the front screen panel.

3. (Original) The television assembly of claim 2, wherein said touch sensor is adhesively attached.

4. (Original) The television assembly of claim 1, further comprising indicia identifying at least one of a location and a function of said at least one touch screen control provided on at least one of said front and rear faces of said front screen panel and visible from a front of said screen assembly.

5. (Original) The television assembly of claim 4, wherein said indicia comprises at least one of text and artwork indicating the location and function of the touch control.

6. (Original) The television assembly of claim 4, wherein said masking layer is applied to said rear face of said front screen panel and wherein said indicia is provided on said rear face prior to applying said masking layer.

7. (Original) The television assembly of claim 2, wherein said masking layer is applied to said rear face of said front screen panel and the touch sensor is attached to said rear face after applying said masking layer.

8. (Original) The television assembly of claim 1, wherein the front screen panel is formed from glass.

9. (Original) The television assembly of claim 1, wherein said masking layer is silk screened to a perimeter of the rear face of the front screen panel to define said masked perimeter area.

10. (Original) The television assembly of claim 1, wherein said front screen panel has a length and width greater than a length and width of said housing so that said front screen panel projects beyond said housing.

11. (Original) The television assembly of claim 1, wherein the front screen panel is flat.

12. (Original) The television assembly of claim 1, wherein said front face is substantially coextensive to said rear face.

13. (Original) The television assembly of claim 1, wherein the television assembly is one of a plasma television, an LCD television, and a projection television.

14. (Original) In a television assembly, a screen assembly comprising:

a generally flat front screen panel having a front face and a rear face;
an opaque masking layer applied to a perimeter of at least one of said front and rear faces of said front screen panel so as to define a masked perimeter area framing a viewable area of said screen assembly; and
at least one touch control operatively coupled to at least one of said front and rear faces of said front screen panel in said masked perimeter area.

15. (Original) The assembly of claim 14, wherein said at least one touch control operatively coupled to said front screen panel comprises a touch sensor attached to the rear face of the front screen panel.

16. (Original) The assembly of claim 15, wherein said touch sensor is adhesively attached.

17. (Original) The assembly of claim 15, wherein said masking layer is applied to said rear face of said front screen panel and the touch sensor is attached to said rear face after applying said masking layer.

18. (Original) The assembly of claim 14, wherein the front screen panel is formed from glass.

19. (Original) The assembly of claim 14, wherein said masking layer is silk screened to a perimeter of the rear face of the front screen panel to define said masked perimeter area.

20. (Original) The assembly of claim 14, further comprising indicia identifying at least one of a location and a function of said at least one touch screen control provided

on at least one of said front and rear faces of said front screen panel and visible from a front of said screen assembly.

21. (Previously presented) The assembly of claim 1, wherein said at least one touch control is adhered directly to the front or rear face of said screen panel.

22. (Previously presented) The assembly of claim 14, wherein said at least one touch control is adhered directly to the front or rear face of said screen panel.

HUBER
Serial No. 10/786,301
Appeal Brief
May 14, 2007

(IX) EVIDENCE APPENDIX

(NONE)

HUBER
Serial No. 10/786,301
Appeal Brief
May 14, 2007

(X) RELATED PROCEEDINGS APPENDIX

The parent application to the subject application, Application No. 10/212,240, was the subject of Appeal No. 2006-3016 in which a Decision was rendered on February 28, 2007. A copy of the Decision on Appeal No. 2006-3016 is attached hereto.

On information and belief there are no other prior or pending appeals, interferences, or judicial proceedings (past or present), known to appellant, the appellant's legal representative, or assignee, which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

2414-26
MNL

UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

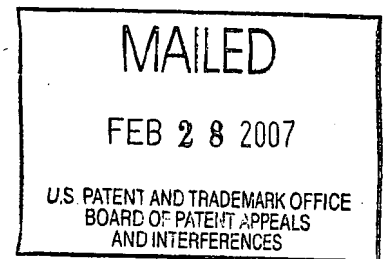
Ex parte RICHARD E. HUBER

2mo (F)
Reg Rehearing / Appl to Court
DATES DOCKETED

Appeal No. 2006-3016
Application No. 10/212,240

FILE April 28, 2007
C/O

HEARD: December 12, 2006



Before HAIRSTON, DIXON, and SAADAT, Administrative Patent Judges.

SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-24, which are all of the claims pending in this application. The Examiner indicates claims 7-10 and 18-20 as allowable (Answer 2), which leaves only the rejection of claims 1-6, 11-17 and 21-24 to be considered by this panel.

We affirm.

I. BACKGROUND

Appellant's invention relates to projection televisions having a flat front panel that eliminates the need for a bezel frame and reduces assembly complexities and the number of parts required for the assembly. An understanding of the invention can be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

1. In a projection television assembly comprising a cabinet structure, a screen assembly including:

a front screen panel having a front face and a rear face, said screen panel being generally fair with said front face substantially coextensive to and parallel to said rear face;

a lenticular screen having a front face and a rear face, said front face being disposed in generally parallel facing relation to said rear face of said screen panel;

a Fresnel screen having a front face disposed in opposed facing relation to said rear face of said lenticular screen;

a plurality of fasteners projecting rearwardly, directly from said screen panel, and secured directly to said cabinet structure, thereby to dispose said lenticular lens and said Fresnel lens between said screen panel and said cabinet.

The Examiner relies on the following prior art references:

Scheve	US 4,715,137	Dec. 29, 1987
Yamada	US 5,580,145	Dec. 3, 1996
Takiguchi	US 5,818,545	Oct. 6, 1998
Mitani	US 5,914,809	Jun. 22, 1999

Appeal No. 2006-3016
Application No. 10/212,240

Schrock	US 5,923,908	Jul. 13, 1999
Whitelaw	US 6,157,416	Dec. 5, 2000

Appellant's admitted prior art (AAPA), Figure 1, pages 1-2 of the Specification.

Claims 1, 11, 14 and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Mitani.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani in combination with AAPA.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani in combination with Scheve.

Claims 5, 16, 17, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani in combination with Whitelaw.

Claims 6 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani in combination with Yamada.

Claims 12 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani in combination with Schrock.

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitani and Schrock in combination with Takiguchi.

Rather than reiterate the opposing arguments, we refer to the Brief and the Answer for the respective positions of Appellant and the Examiner. Only those arguments actually made by Appellant have been considered in this decision. Arguments which Appellant could have made but chose not to make in the brief have not been considered (37 CFR § 41.37(c)(1)(vii)).

OPINION

Regarding 35 U.S.C. § 102 rejection of claim 1, Appellant's position is that the screen panel shown in Figure 7b of Mitani is not generally flat as claimed and does not comprise a plurality of fasteners projecting rearwardly from a flat screen (Br. 10). Appellant points out that the edge walls of the front screen in Mitani cannot be ignored as they truncate the rear surface and prevent it from being coextensive with the front face of the screen panel (Br. 11). In response, the Examiner argues that the claims do not preclude the fasteners being integrally formed with the front wall of the screen (Answer 15) while the terms "generally flat" and "substantially coextensive" merely require less than 100 percent flat and coextensive (Answer 16). The Examiner concludes that even with the edge walls,

the remaining part of the screen panel in Mitani is generally flat with its front face substantially coextensive to its rear face where the fasteners project rearwardly (*id.*).

A rejection for anticipation requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. *See Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1946-47 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), it is only necessary for the claims to “‘read on’ something disclosed in the prior art reference, i.e., all limitations of the claim are found in the reference, or ‘fully met’ by it.” *See also Atlas Powder Co. v. IRECO Inc.*, 190 F.3d at 1346, 51 USPQ2d at 1945 (Fed. Cir. 1999) (quoting

Appeal No. 2006-3016
Application No. 10/212,240

Titanium Metals Corp. v. Banner, 778 F.2d 775, 781, 227 USPQ 773, 778 (Fed. Cir. 1985)).

In determining the subject matter encompassed by claim 1, we agree with the Examiner that the claim merely requires the screen panel be generally flat with the front face substantially coextensive to its rear face. However, Mitani does show panel 2 which, although is shaped as a box by short sidewalls (Mitani, Figures 7b and 8b; col. 7, ll. 4-7), is generally flat and has substantially coextensive front and rear faces. Mitani also shows a plurality of fasteners 13 and 27 for mounting the two lenses between the front panel and the cabinet main body, which are provided at the edge of the front panel and project rearwardly from the screen panel (Mitani, col. 7, ll. 8-10).

We also remain unconvinced by Appellant's argument that because the edge walls truncate the rear face, it cannot be coextensive with the front face (Br. 11). As pointed out by the Examiner, the presence of the edge walls does not preclude the front face being substantially coextensive to the rear face or the fasteners projecting rearwardly from panel 2 of Mitani (Answer 16). Accordingly, the 35 U.S.C. § 102(b) rejection of claims 1, 11, 14 and 21 over Mitani is sustained.

35 U.S.C. § 103 rejection of the claims

With respect to claim 2, Appellant argues (Br. 12) that the AAPA refers only to clear or slightly tinted acrylic. Appellant further points out that the Examiner has not shown any suggestion for using glass in Mitani (id.). The Examiner relies on pages 1-2 of Appellant's Specification and asserts that the advantages of using a glass protective screen would have made the modification obvious to one of ordinary skill in the art (Answer 18).

A review of Mitani also reveals that a glass or plastic panel, disposed in front of the lens layers, lowers the light permeability on the front surface and protects the sensitive lens layers (Mitani, col. 1, ll. 5-13). Although Mitani already describes using glass panel 69 (Figure 11), its combination with AAPA is proper as they both describe the benefits of using a glass front panel. Obviousness from [prior art reference] would follow, ipso facto, if [prior art reference] anticipates. *See RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1446, 221 USPQ 385, 390 (Fed. Cir. 1984), *citing In re Kalm*, 378 F.2d 959, 962, 154 USPQ 10, 12 (CCPA 1967), (anticipation stated as being the "epitome of

obviousness"). Accordingly, we also sustain the 35 U.S.C. § 103 rejection of claim 2.

Regarding the 35 U.S.C. § 103 rejection of claims 3 and 4, Appellant merely relies on the same arguments presented for base claim 1 (Br. 13). For the same reasons stated above, we sustain the 35 U.S.C. § 103 rejection of claims 3 and 4 over Mitani and Scheve.

Turning now to the 35 U.S.C. § 103 rejection of claims 5, 16, 17, 23, and 24, we note that Appellant's arguments focus on what the claimed front screen cannot include, such as integral tabs or fasteners (oral hearing; Br. 14). The Examiner apparently takes tabs 30 of Whitelaw as parts of viewing screen 12 (Answer 19) wherein screw-like fasteners connect the front screen to the frame (Whitelaw, Fig. 5A, col. 5, ll. 7-12). Based on the breadth of the claimed subject matter we discussed above, we find that tabs 30 or similar extensions are integral parts of the front screen in Whitelaw. Thus, we agree with the Examiner's reasoning that one of ordinary skill in the art would have found it obvious to use fasteners inserted in the apertures in front screen tabs of Whitelaw for connecting

Appeal No. 2006-3016
Application No. 10/212,240

the front screen to the cabinet. Accordingly, the 35 U.S.C. § 103 rejection of claims 5, 16, 17, 23 and 24 over Mitani and Whitelaw is sustained.

Regarding the 35 U.S.C. § 103 rejection of claims 12 and 22 over Mitani and Schrock, Appellant asserts that the touch controls disclosed by Schrock are in an entirely different assembly and cannot be combined with Mitani (Br. 16). We agree with the Examiner (Answer 20-21) that the principles of operation of touch sensitive controls in a camera, as disclosed by Schrock, are applicable to other devices such as a television since similar functions are intended. Therefore, we sustain the 35 U.S.C. § 103 rejection of claims 12 and 22 over Mitani and Schrock.

Lastly, turning to the rejection of the remaining claims over various combinations of Mitani with Yamada, Schrock and Takiguchi, we note that Appellant relies on similar arguments presented above with respect to claim 1. We sustain these rejections as well. Since we agree with the Examiner, as previously discussed, that Mitani can be reasonably interpreted as providing the claimed front screen, we find no error in the Examiner's finding of obviousness as taught by the combination of Mitani with Yamada, Schrock or Takiguchi.

Appeal No. 2006-3016
Application No. 10/212,240

Accordingly, we sustain the 35 U.S.C. § 103 rejection of claims 6 and 15 over Mitani and Yamada, as well as the 35 U.S.C. § 103 rejection of claim 13 over Mitani, Schrock and Takiguchi.

CONCLUSION


In view of the forgoing, the decision of the Examiner rejecting claims 1, 11, 14 and 21 under 35 U.S.C. § 102 and rejecting claims 2-6, 12, 13, 15-17 and 21-24 under 35 U.S.C. § 103 is affirmed

Appeal No. 2006-3016
Application No. 10/212,240

No time period for taking any subsequent action in connection with this
appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED


KENNETH W. HAIRSTON
Administrative Patent Judge


JOSEPH L. DIXON
Administrative Patent Judge

) BOARD OF PATENT

) APPEALS AND


MAHSHID D. SAADAT
Administrative Patent Judge

) INTERFERENCES

MDS/gw

Appeal No. 2006-3016
Application No. 10/212,240

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203